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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/726,255

12/02/2003

Michael Guidry

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05/18/2006

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EXAMINER

AVERY, BRIDGET D

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/726,255	GUIDRY ET AL.	
	Examiner	Art Unit	
	Bridget Avery	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 11-15, 18 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 16, 17, 19, 20, 22-24 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 9 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/05/04 & 4/18/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election of Species I (Figures 1-11) and Sub-Species I (Figures 13-17) in the reply filed on February 21, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 11-15, 18 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.
3. An action on the merits of claims 1-10, 16, 17, 19-24 and 26-28 follows.

Information Disclosure Statement

4. The Information Disclosure Statements filed by applicant on April 5, 2004 and April 18, 2006 have been considered.

Claim Objections

5. Claim 12 is objected to because of the following informalities: “,” after “wherein” should be deleted. Appropriate correction is required.
6. Claim 14 is objected to because of the following informalities: “,” after “wherein” should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7, 10, 17, 19, 20, 22-24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno et al. (US Patent 5,193,635) in view of Mizuta (US Patent 6,517,111).

Mizuno et al. teaches an electric motor-operated vehicle similar to applicant's including a plurality of wheels (13, 14) a vehicle body (12), a seat (18) connected to the vehicle body, a loading platform that supports accessories such as rack (52), an electric motor configured to drive the vehicle, at least one battery (44) configured to supply power to the electric motor (not shown), a fuel cell (24) configured to charge the at least one battery (44), at least one fuel tank (31) configured to supply fuel to the fuel cell, and an electric motor control unit (45) configured to control the operation of the electric motor. See Figures 1, 2, 7 and column 4, lines 22-29 and lines 34-45. At least one of the plurality of wheels is a front wheel (13) and at least one of the plurality of wheels is a rear wheel (14). The vehicle body (12) defines a vehicle width extending along a transverse axis between a left side and a right side of the vehicle, and defines a vehicle length extending along a longitudinal axis between a front end and a rear end of the vehicle body (12), as clearly shown in Figures 7 and 8. The loading platform is disposed rearward of the seat (18) above the rear wheel (14) and configured to receive at least one object, as shown in Figure 7. The at least one fuel tank (31) has a front end

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and a rear end defining a longitudinal axis extending between the front end and the rear end. See Figures 1 and 2. The fuel cell, the at least one battery, and the at least one fuel tank are mounted centrally between the left and right side of the vehicle. The fuel cell (24) is also disposed beneath the seat (18). Re claim 4, the seat (19) forms a partition wall between the battery and the fuel tank, as shown in Figure 8. Re claim 5, the fuel cell (24) is disposed between the fuel tank (31) and the front end of the vehicle. Re claim 6, the seat (18) forms a partition wall between the fuel cell (24) and the fuel tank (31). Re claim 19, the teaching of discharging waste water from the fuel cell is inherent. Re claims 20, 22 and 23, the teaching of rearward disposed piping having a fuel supply port to connect the fuel tank and the fuel cell is inherent. Re claim 24, the teaching of a fuel supply inlet mechanism of the at least one fuel tank that faces the front end of the vehicle body is also inherent because of the position of fuel tank (31) within vehicle body (12).

Mizuno et al. lack the teaching of main frame rails disposed along the longitudinal axis of the vehicle body and the teaching of right and left side rails of a loading platform receiving frame that is connected to the main frame rails and to which the loading platform is connected.

Mizuta teaches the desirability of disposing main frame rails (10) along the longitudinal axis of a vehicle body and providing right and left side rails of a loading platform receiving frame that is connected to the main frame rails (10) and to which a loading platform (5) is connected. See Figures 2 and 4.

From the teaching of Mizuta, disposing main frame rails along the longitudinal axis of the vehicle body of Mizuno et al. and providing right and left side rails of a loading platform receiving frame that is connected to the main frame rails and to which the loading platform is connected would have been obvious to one having ordinary skill in the art, at the time the invention was made. This would provide a support structure for the vehicle body and systems. Re claim 3, in the structure resulting from this combination, the at least one battery would be disposed between the at least one fuel tank and one of the left and right side rails of the loading platform receiving frame. It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide a removable fuel cell, battery and fuel tank, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno et al. ('635) and Mizuta ('111) as applied to claim 1 above, and further in view of Wild (US Patent 3,497,027).

The combination of Mizuno et al. and Mizuta teach the features described above.

The combination of Mizuno et al. and Mizuta lack the teaching of a partition having a vent.

Wild teaches a partition/wall (47) having a vent (55).

Based on the teachings of Wild, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a vent to the partition

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formed by the seat structure of Mizuno to vent the battery under normal conditions, as taught in column 3, lines 44-49.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizuno et al. ('635) and Mizuta ('111) as applied to claim 1 above, and further in view of Riemer et al. (US Patent 5,641,031).

The combination of Mizuno et al. and Mizuta teach the features described above.

The combination of Mizuno et al. and Mizuta lack the teaching of a partition having a vent.

Riemer et al. teaches positioning members for the fuel tank (17).

Based on the teachings of Riemer et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add positioning members to the vehicle of Mizuno et al. for safety reasons.

Allowable Subject Matter

10. Claims 9 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Kejha shows a hydrogen electric hybrid vehicle construction.

Swindell shows an all electric motor vehicle.

Fillman et al. shows an electric drive mower.

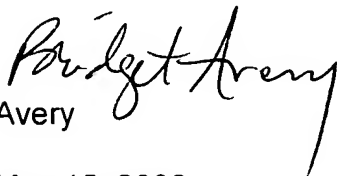
Fillman et al. shows another electric drive mower.

Nagura et al. shows a fuel-cell-powered four-wheel automobile.

Wait shows a one-man armored vehicle.

Kawasaki et al. shows a body structure of fuel cell vehicle.

12. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

May 15, 2006


CHRISTOPHER P. ELLIS
SUPERVISORY PATENT EXAMINER
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